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 MICHAEL W. DOBBINS
 CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

United States of America ex rel.

Theodore Luczak I.D. #B-00780
 (Full name and prison number)
 (Include name under which convicted)

PETITIONER

vs.

Jerry McCann
 (Warden, Superintendent, or authorized
 person having custody of petitioner)

RESPONDENT, and

(Fill in the following blank only if judgment
 attacked imposes a sentence to commence
 in the future)

ATTORNEY GENERAL OF THE STATE OF

ILLINOIS

(State where judgment entered)

CASE NO:

(Supplied by Clerk of this Court)

07cv6375

JUDGE GUZMAN

MAG. JUDGE KEYS

Case Number of State Court Conviction:

89CR067201**PETITION FOR WRIT OF HABEAS CORPUS – PERSON IN STATE CUSTODY**

1. Name and location of court where conviction entered: Sixth (6th) Municipal District
16501 S. Kedzie Parkway, Markham, IL 60428

2. Date of judgment of conviction: February 2, 1990

3. Offense(s) of which petitioner was convicted (list all counts with indictment numbers, if known)

89CR0678201 AGG CRIM SEX ASSAULT - AGG KIDNAPPING - AGG SEX ABUSE

4. Sentence(s) imposed: _____

5. What was your plea? (Check one)

- (A) Not guilty ()
 (B) Guilty (X)
 (C) Nolo contendere ()

If you pleaded guilty to one count or indictment and not guilty to another count or indictment, give details:

PART I - TRIAL AND DIRECT REVIEW

1. Kind of trial: (Check one): Jury () Judge only ()
 2. Did you testify at trial? YES () NO ()
 3. Did you appeal from the conviction or the sentence imposed? YES () NO (X)

(A) If you appealed, give the

- (1) Name of court: _____
 (2) Result: _____
 (3) Date of ruling: _____
 (4) Issues raised: _____

(B) If you did not appeal, explain briefly why not:

My Attorney told me that I could not seek an appeal

4. Did you appeal, or seek leave to appeal, to the highest state court? YES () NO (X)

(A) If yes, give the

- (1) Result _____
 (2) Date of ruling: _____
 (3) Issues raised: _____

(B) If no, why not: I was informed that I could not seek an appeal

5. Did you petition the United States Supreme Court for a writ of *certiorari*? Yes () No (X)

If yes, give (A) date of petition: _____ (B) date *certiorari* was denied: _____

PART II - COLLATERAL PROCEEDINGS

1. With respect to this conviction or sentence, have you filed a post-conviction petition in state court?

YES () NO (X)

With respect to *each* post-conviction petition give the following information (use additional sheets if necessary):

A. Name of court: _____

B. Date of filing: _____

C. Issues raised: _____

D. Did you receive an evidentiary hearing on your petition? YES () NO (X)

E. What was the court's ruling? _____

F. Date of court's ruling: _____

G. Did you appeal from the ruling on your petition? YES () NO (X)

H. (a) If yes, (1) what was the result? _____

(2) date of decision: _____

(b) If no, explain briefly why not: I was informed that I could not appeal

I. Did you appeal, or seek leave to appeal this decision to the highest state court?

YES () NO (X)

(a) If yes, (1) what was the result? _____

(2) date of decision: _____

(b) If no, explain briefly why not: I was informed that I could not appeal

2. With respect to this conviction or sentence, have you filed a petition in a state court using any other form of post-conviction procedure, such as *coram nobis* or habeas corpus? YES (X) NO ()

A. If yes, give the following information with respect to each proceeding (use separate sheets if necessary):

1. Nature of proceeding State Habeas Corpus
2. Date petition filed April 5, 2006
3. Ruling on the petition No Ruling was had
3. Date of ruling July 19, 2006
4. If you appealed, what was the ruling on appeal? No Ruling was had
5. Date of ruling on appeal May 18, 2007
6. If there was a further appeal, what was the ruling? Illinois Supreme Court Denied P.L.A.
7. Date of ruling on appeal September 14, 2007

3. With respect to this conviction or sentence, have you filed a previous petition for habeas corpus in federal court?
YES () NO (X)

A. If yes, give name of court, case title and case number: _____

B. Did the court rule on your petition? If so, state

- (1) Ruling: _____
- (2) Date: _____

4. WITH RESPECT TO THIS CONVICTION OR SENTENCE, ARE THERE LEGAL PROCEEDINGS PENDING IN ANY COURT, OTHER THAN THIS PETITION?

YES () NO (X)

If yes, explain: ~~Ex parte~~

PART III - PETITIONER'S CLAIMS

1. State briefly every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. You may attach additional pages stating additional grounds and supporting facts. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds later.

BEFORE PROCEEDING IN THE FEDERAL COURT, YOU MUST ORDINARILY FIRST EXHAUST YOUR STATE COURT REMEDIES WITH RESPECT TO EACH GROUND FOR RELIEF ASSERTED.

- (A) Ground one Petitioner's Fifth(5th), Sixth(6th) and Fourteenth(14th)
Supporting facts (tell your story briefly without citing cases or law):

Amendments of the United States Constitution : have been violated where the court lacked any jurisdiction over the charges by indictment, as the alleged crime was committed in the State of Indiana and not the State of Illinois.

I. INTRODUCTION

(See Additional Pages)

- (B) Ground two _____
Supporting facts:

() ()

On, or about, February 2, 1989, the petitioner was arrested and charged with Aggravated Criminal Sexual Assault - Criminal Sexual Assault - Aggravated Kidnapping - Aggravated Criminal Sexual Abuse and Unlawful Restraint. On March 23, 1989, the petitioner was presented with an indictment containing said charges. On April 7, 1989, petitioner was arraigned and entered a plea of not guilty. On February 2, 1990, the Honorable John J. Mannion entered a finding of guilty on counts 01 and 02, and sentenced the petitioner to Ten (10) years in the Illinois Department of Corrections.

After completing his sentence and was placed on two(2) years parole.

On, or about, April 24, 1995, the petitioner was arrested and charged with various sexual assault-related offenses. On May 25, 1995, the petitioner was presented with an indictment under number 95CR1411801, charging him with Aggravated Criminal Sexual Assault - Criminal Sexual Assault - Aggravated Kidnapping - Aggravated Criminal Sexual Abuse and Unlawful Restraint. At the petitioner's sentencing, the State introduced the testimony of the alleged victims in case

number 89CR0678201, seeking to enhance the petitioner's sentence; at this time each alleged victim testified to the fact that the assault took place in the State of Indiana, as on June 24, 1997. Veronica Gaeta testified to the fact that the assault took place on 111th Street right off of Indianapolis Boulevard. (See T.R. K-23) ~~Also~~ Also on June 24, 1997, Paula Sledge - Coleman, further testified to the fact that the alleged assault took place in Beer Can Alley which is on 111th Street off of Indianapolis Boulevard. (See T.R. K-45) Also on May 15, 1997, Nicole De Lapaz further testified to the fact that the alleged assault took place off of Indianapolis. (See T.R. D-176) As a result of said convictions, the petitioner was given an enhanced sentence of 60 and 40 years. (See T.R. N-38)

Due to the fact that the alleged assaults took place in the State of Indiana, the sentencing court in case number 89CR0678201 had no jurisdiction over any of the charges, and as such; the court in case number 95CR1411801 was unable to use said convictions to enhance petitioner's current sentence and as such; the petitioner is entitled to discharge, as the

range of sentence in case number 95CR1411801 without the use of a prior conviction is from 6 to 30 years

For the convenience of this court, a copy of the Circuit, Appellate and Illinois Supreme Court decisions are included in the Appendix to this petition.

CONCLUSION

A claim under 28 U.S.C. § 2254 requires the federal habeas court to ensure that the state criminal conviction was not achieved at the expense of the petitioner's constitutional rights. It is clear that the petitioner is in custody by the use of a prior conviction, and that the petitioner's current conviction is also unconstitutional as petitioner is currently in the Illinois Supreme Court seeking DNA evidence. (See Appendix).

(C) Ground three _____
Supporting facts:

(D) Ground four _____
Supporting facts:

2 Have all grounds raised in this petition been presented to the highest court having jurisdiction?
YES NO

3. If you answered "NO" to question (16), state briefly what grounds were not so presented and why not:

PART IV -- REPRESENTATION

Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

- (A) At preliminary hearing Stephen S. Sausmen
- (B) At arraignment and plea Stephen S. Sausmen
- (C) At trial _____
- (D) At sentencing _____
- (E) On appeal _____
- (F) In any post-conviction proceeding _____
- (G) Other (state): _____

PART V -- FUTURE SENTENCE

Do you have any future sentence to serve following the sentence imposed by this conviction?

YES () NO ()

Name and location of the court which imposed the sentence: Circuit Court of Cook County

Date and length of sentence to be served in the future 100 years

WHEREFORE, petitioner prays that the court grant petitioner all relief to which he may be entitled in this proceeding.

Signed on: 11/2/07
(Date)

Theodore Lucy
Signature of attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct.

Theodore Lucy
(Signature of petitioner)
B-00780
(I.D. Number)
Route 53, P.O. Box 112, Joliet, IL 60434
(Address)

REVISED 01/01/2001

1 STATE OF ILLINOIS)
2)
2 COUNTY OF COOK)

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
4 COUNTY DEPARTMENT - CRIMINAL DIVISION

5 THE PEOPLE OF THE)
6 STATE OF ILLINOIS,)
7)
7 vs.) Indictment No. 95-14118
8) CHARGE: ACSA
8)
8 THEODORE LUZCAK)
8)

9 REPORT OF PROCEEDINGS

10 had at the hearing of the above-entitled cause, before
11 the Honorable EDWARD M. FIALA, JR., Judge of said
Court on the 24th day of June, A. D., 1997.

12 APPEARANCES:

13
14 HONORABLE RICHARD A. DEVINE,
15 State's Attorney of Cook County,
16 by:
17 MR. RAYMOND BROGAN & MR. LINAS
18 KELECIUS:
19 Assistant State's Attorneys,
20 on behalf of the People;

21 DEFENDANT THEODORE LUZCAK:
22 appear pro se.

23
24 Helen M. Hackney
Official Court Reporter
2650 South California
Chicago, Illinois 60608

1 I N D E X

2 June 24, 1997

3 Sentencing Hearing
4 Commenced and Continued

5 Pages K1 through K79

6

7 <u>LIST OF WITNESSES:</u>	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>
8 Veronica Gaeta	K18	K31		
9 Paula Sledge-Coleman	K39	K54		
10 Donald Shone	K61	K74	K76	

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1
2
3

4 V E R O N I C A G A E T A,

5 the witness herein, called as a witness on behalf of
6 the People of the State of Illinois, having been first
7 duly sworn, was examined and testified as follows:

8

9 DIRECT EXAMINATION

10 BY

11 MR. KELECIUS:

12

13 Q. Miss Gaeta, I would like you in a loud and
14 clear voice to tell your name and spell your name and
15 please give us your full name, including your maiden
16 name and your current name.

17 A. Veronica Delgado Ransy Gaeta, G-a-e-t-a.

18 Q. Miss Gaeta, back in February, 1989, back
19 then you were going simply by the name Veronica Gaeta;
20 is that correct?

21 A. Yes.

22 Q. Delgado is now your married name?

23 A. Yes.

24 Q. Miss Gaeta, back on February 25th, of 1989,

1 at about 7:30 in the morning were you walking to the
2 bus stop at the three-way intersection of Muskegon,
3 South Chicago and 92nd Street, in Chicago, Illinois?

4 A. Yes.

5 Q. How old were you back then?

6 A. 15.

7 Q. And back then were you going to school? In
8 general were you going to high school at that time?

9 A. Yes.

10 Q. What high school?

11 A. Bowen High School.

12 Q. What year in high school were you in at
13 that time?

14 A. Sophomore.

15 Q. And, back when you were walking to that bus
16 station on February 25th, 1989, why were you going to
17 the bus stop?

18 A. I was headed to the math club competition
19 at Kennedy King.

20 Q. What kind of math club competition was
21 that?

22 A. What kind?

23 Q. Yes.

24 A. It was from the school. We would meet on

1 Saturday and compete against all the other schools.

2 Q. Was this actually a competition day?

3 A. Yes.

4 Q. As you were approaching that particular bus
5 stop did something happen to you?

6 A. Yes.

7 Q. What happened? What's the first thing that
8 happened?

9 A. I was stopped.

10 Q. How were you stopped?

11 A. I was crossing the street and a car pulled
12 up in front of me.

13 Q. The car?

14 A. And blocked my path.

15 Q. Do you remember what that car looked like?

16 A. No. I don't remember now.

17 Q. Do you remember the color?

18 A. It could have been white.

19 Q. And, go --

20 DEFENDANT LUZCAK: Objection, your Honor.

21 THE COURT: I will leave that answer stand.

22 MR. KELECIUS: Q. What happened when that car
23 pulled in front of you?

24 THE WITNESS: A. The passenger door swung open

1 and the man inside pulled me in.

2 Q. I want you to look around the courtroom
3 right now. Do you see that man in court right now?

4 A. Not in front of me.

5 Q. I'm sorry?

6 A. Not in front of me.

7 Q. Stand up, look around the courtroom. Do
8 you see the man that pulled up into the car?

9 A. Yeah.

10 Q. Point him out, please.

11 A. That's him.

12 Q. What's he wearing?

13 A. A beige shirt, tan.

14 MR. KELECIUS: May the record reflect she had
15 identified the defendant?

16 THE COURT: Please be seated. So reflect.

17 MR. KELECIUS: Q. Miss Gaeta, how did he pull you
18 into the car after that passenger door swung open?

19 THE WITNESS: A. I really don't remember how it
20 happened. It was so fast.

21 Q. What happened after he pulled you into the
22 car?

23 A. He push my head down to the bottom of the
24 car, and he just slammed the door shut, start driving

1 off.

2 Q. Did he say anything to you around this
3 time?

4 A. At this point, no.

5 Q. What did you say to him?

6 A. I was just screaming, telling him to let me
7 go.

8 Q. And did the car begin to move?

9 A. Yes.

10 Q. How long did the car drive at this point?

11 A. Maybe ten minutes.

12 Q. And what were you doing during those ten
13 minutes as the car was driving?

14 A. I was struggling because he was pulling my
15 hair and keeping my head down.

16 Q. Was he saying anything to you during those
17 ten minutes?

18 A. He said we were going to the park.

19 Q. Did he tell you what park you were going
20 to?

21 A. Not at that time, no.

22 Q. Did you say anything to him during this
23 ten-minute ride?

24 A. No.

1 Q. What happened after the car drove for about
2 ten minutes?

3 A. He pulled over, and when I was able to look
4 up I recognized that it was Calumet Park.

5 Q. What park?

6 A. Calumet.

7 Q. Where Calumet Park?

8 A. It's 111th Street, 111th right off
9 Indianapolis Boulevard.

10 Q. That is still Chicago?

11 A. Yes.

12 Q. How close is that to Indiana?

13 A. It's right by the border.

14 Q. When you say you were in Calumet Park that
15 is actually a park?

16 A. Yes.

17 Q. And, the part of the park that you were in
18 could you recognize it?

19 A. Yes. They blocked it off now. It's not
20 there any more, but at that time they used to call it
21 Beer Can Alley.

22 Q. How secluded is Beer Can Alley?

23 A. It's pretty secluded. There's tracks right
24 next to it, and cars aren't really allowed in there.

1 Q. What kind of a road leads to Beer Can
2 Alley; that is a paved road, unpaved road?

3 A. No. It's dirt.

4 Q. What happened when you looked and realized
5 you were in Beer Can Alley?

6 A. Then that's when he started talking to me,
7 telling me what he was going to do.

8 Q. What did he say?

9 A. He said he was going to fuck me.

10 Q. What happened?

11 A. And that's when I start struggling. He was
12 just pulling my hair and trying to hold me down.

13 Q. And, what did he do as he pulled your hair?

14 A. Then he started pulling down his pants.

15 Q. Doing what with his pants?

16 A. Pulling them down.

17 Q. His own pants?

18 A. Yes.

19 Q. What did he do?

20 A. Then he pushed me down and told me to --
21 that I had to do oral sex on him.

22 Q. Were those his words? What were his words?

23 A. He told me suck it like a lollipop.

24 Q. What happened then?

1 A. I kept telling him no.

2 Q. So what happened?

3 A. He just kept pushing my head down.

4 Q. What happened?

5 A. I guess he got mad, and then he just pushed
6 me back on the seat and he yanked one of the levers
7 down and it went back.

8 Q. What went back?

9 A. The seat.

10 Q. Let me back up. Before we get to the seat
11 during the time that he was pushing your head did any
12 part of your body come into contact with his penis?

13 A. Yes.

14 Q. What part?

15 A. My mouth.

16 Q. And how far into his mouth did he get his
17 penis?

18 A. He shoved it in.

19 Q. How long did he keep it in your mouth?

20 A. A few minutes.

21 Q. And where were his hands during these few
22 minutes?

23 A. One was pulling my hair. I don't know what
24 he was doing with the hair.

1 Q. Were his hands still or were they moving
2 during the time he was holding your hair?

3 A. Moving.

4 Q. How was he moving his hands?

5 A. He was trying to hold my head down. I kept
6 trying to push it back up. He kept pushing me back
7 down.

8 Q. Now after he folded back the seat tell us
9 what happened then.

10 A. And then he pulled down my pants and then I
11 kept telling him to stop and then he just went ahead
12 and raped me.

13 Q. When you say he raped you what did he do?

14 A. He --

15 Q. Describe what he did when you use the term
16 rape. Describe what he was doing, what you mean.

17 A. He put his penis in me.

18 Q. In which part of your body?

19 A. In my vagina.

20 Q. How long did he have his penis in your
21 vagina?

22 A. I don't know.

23 Q. And was he moving or still while he had his
24 penis in your vagina?

1 A. He was moving.

2 Q. And, how did that part end?

3 A. I kept telling him to get up. He was
4 hurting me.

5 Q. What was he saying in response to you
6 saying that?

7 A. He kept saying that if I kept struggling he
8 was going to hurt me some more.

9 Q. What happened?

10 A. It was just over. He threw some towels at
11 me, told me to clean up.

12 Q. And then what happened?

13 A. And then he just zipped up his pants and
14 started driving.

15 Q. Where did he drive to?

16 A. Same place he got me. When we got there he
17 just pushed me out of the car.

18 Q. What did he say to you during the ride from
19 Beer Can Alley up to where he pushed you out of the
20 car?

21 A. He kept telling me that I was nice and he
22 wanted to see me again.

23 Q. Did he say anything else?

24 A. No.

1 Q. And, as he pushed you out did he say
2 anything to you?

3 A. I don't remember.

4 Q. What happened after he pushed you out of
5 the car?

6 A. I just waited for the bus and I went to
7 Kennedy King.

8 Q. What happened when you got to Kennedy King?

9 A. I told my best friend and she went and told
10 one of the teachers that was with us.

11 Q. What happened then?

12 A. And then one of the school security guards
13 came and got me and took me down to his office and I
14 waited there until the police got there.

15 Q. Did the police come?

16 A. Yes.

17 Q. And did you tell them what happened?

18 A. Yes.

19 Q. Did he they take you some where?

20 A. To the hospital.

21 Q. At the hospital were you examined for being
22 raped?

23 A. Yes.

24 Q. Back when he was abducting and assaulting

1 you did you notice what he was wearing on the top of
2 his body?

3 A. I remember that he was wearing a black
4 satin jacket with Ted written on it.

5 Q. I want to direct your attention now to
6 about two weeks later after this attack on March 9th,
7 1989, at about three o'clock in the afternoon. Did
8 the police have you look at a lineup?

9 A. Yes.

10 Q. And when you looked at the lineup did you
11 identify the defendant?

12 A. Yes.

13 Q. And, did you later find out that on
14 February the 2nd of 1990 that the defendant pleaded
15 guilty to the -- to raping you and that he got ten
16 years in prison under Case Number 89 CR dash 6784
17 slash 01?

18 A. Yes.

19 Q. Mr. Gaeta, at the time the defendant
20 abducted you off the street had you ever seen him
21 before?

22 A. No.

23 Q. And also, Miss Gaeta, would you tell us
24 what impact and effect did this assault have on you

1 after the defendant assaulted you?

2 A. I was just really scared to go out. I
3 wouldn't go outside. I didn't want to go to school.

4 Q. And how long did that last where you didn't
5 want to go to school and you didn't want to go
6 outside?

7 A. It was a long time.

8 Q. When you say a long time are you talking
9 days, weeks, months? Would you give us an idea?

10 A. It was until school ended in June. After
11 that I just stayed in during the whole summer.

12 Q. And, what about the math club competition,
13 did you continue with that after this happened?

14 A. Yes, but my father would drive me.

15 Q. And, what the defendant did to you, did it
16 have any effect on your ability to sleep?

17 A. Yes.

18 Q. What effect did it have?

19 A. I would wake up in the middle of the night
20 crying and I would have nightmares.

21 Q. How long did the crying, waking up, and
22 crying and the nightmares last?

23 A. About a year.

24 Q. And, did it -- what the defendant did to

1 you affect your ability to function in any other ways?

2 A. Well, I lost a lot of friends. I didn't
3 want to talk to anybody.

4 Q. And how would you say what he did to you
5 affected you emotionally?

6 A. I don't know. I was really scared for a
7 long time.

8 Q. Have there been any long term effects from
9 what the defendant did to you? Are there any effects
10 to this day that you still have?

11 A. No. I thought I had gotten over it.

12 Q. I'm sorry?

13 A. I thought I had gotten over it until I got
14 this call to come here.

15 MR. KELECIUS: I have no further questions. Mr.

16 THE COURT: Mr. Luzcak, if you wish you may
17 inquire.

18

19 CROSS-EXAMINATION

20 BY

21 DEFENDANT LUZCAK:

22
23 Q. Good morning, Miss Gaeta. I would like to
24 take you back to 1986. It's been 8 years almost 9,

1 correct? State's attorney asked you in the beginning
2 of his conversation if you remember what kind of car
3 it was; am I correct, and you told him that you didn't
4 remember it; correct?

5 A. Yes.

6 Q. And then he asked you again and you said it
7 was a white car, correct?

8 A. Yes.

9 Q. Did the State tell you to say it was a
10 white car or did you remember that it was a white car?

11 A. I said it could have been a white car.

12 Q. Did you remember that?

13 A. Yes, yes. I remembered.

14 Q. Okay.

15 I will bring up a couple of names to
16 you. Do you know a girl by the name of Maria Choa?

17 A. No.

18 Q. Linda Luzcak?

19 A. No.

20 Q. Nicole De La Paz?

21 A. No.

22 Q. You know none of them?

23 A. No.

24 Q. They never went to your school?

1 A. They might have but I don't know them.

2 Q. You never had a conversation with Nicole De
3 La Paz and Maria Choa a couple of days after that
4 saying that, yeah, we got him and we tricked him for
5 your boyfriend who was a GD that also went to the
6 school?

7 A. You're so full of shit. I didn't have a
8 boyfriend at the time, okay? I don't know who you are
9 bringing up. I don't know any of those women.

10 Q. Did you ever have a conversation?

11 A. No, I didn't.

12 Q. Never during the time you went to school?

13 A. No.

14 THE COURT: Ask another question, sir.

15 DEFENDANT LUZCAK: Yes, sir.

16 Q. Isn't it a fact on that day that the
17 defendant never pulled you in the car, correct?

18 THE WITNESS: A. Yes, you did.

19 Q. You were standing at a bus stop, correct?

20 A. I was headed for the bus stop, correct.

21 Q. You were standing at the bus stop by Bowen
22 High School?

23 A. I was headed for the bus stop.

24 Q. The bus stop is on South Chicago Avenue

1 around 92nd?

2 A. Yes.

3 Q. Trumbull Park?

4 A. Bessmer.

5 Q. It was Bessmer that you were standing
6 at the bus stop when the defendant pulled up to you?

7 A. I said no.

8 Q. When the defendant pulled up to you, you
9 had a conversation and never pulled you in the car;
10 correct?

11 A. No.

12 Q. Never pulled you in the car?

13 A. Yes. He pulled me in the car.

14 Q. Miss Gaeta, can you please tell me how that
15 is that you can't remember the color of a car but when
16 they get into a finer detail of the case you can
17 remember the whole thing?

18 MR. BROGAN: Objection to that form of that
19 objection.

20 THE COURT: I will sustain it. Rephrase your
21 question.

22 DEFENDANT LUZCAK: Q. Miss Gaeta, can you please
23 tell me how that you can remember certain parts of my
24 questions, part of the questioning they were asking

1 you and you couldn't remember other parts of the
2 questioning they were asking you?

3 MR. BROGAN: Objection again.

4 THE COURT: Do you understand that question?

5 THE WITNESS: How can I forget what you did to
6 me? I can't forget the details. I can forget but not
7 exactly what you did to me, okay.

8 DEFENDANT LUZCAK: I think you pretty much
9 explained that. What I am saying is how is it that
10 you can remember some of the parts of it but you can't
11 remember other parts?

12 MR. BROGAN: Objection.

13 DEFENDANT LUZCAK: Because it's been eight years
14 exactly.

15 THE WITNESS: Okay.

16 I remember exactly what you did to me.
17 That's not very easy to forget.

18 DEFENDANT LUZCAK: I understand what you're
19 saying. That's why I am trying to ask you a question.
20 How could it be that you couldn't remember certain
21 parts of finer details and other parts of finer
22 details you can't remember, which you should be able
23 to?

24 MR. KELECIUS: Objection.

1 THE COURT: Sustained.

2 MR. KELECIUS: It's asked and answered.

3 THE COURT: Sustained.

4 DEFENDANT LUZCAK: Q. You say you were pulled
5 into the car on this day, correct?

6 THE WITNESS: A. Yes.

7 Q. Did you get a clear view of the car?

8 A. Not clear, no.

9 Q. How far away from the car were you when you
10 were pulled into the car?

11 A. About a foot.

12 Q. About a foot. Can you remember if it was a
13 two door or four door?

14 A. Nope.

15 Q. Can you remember if it had license plates
16 on it?

17 A. No.

18 Q. Can you remember if there was only one or
19 two people in the car?

20 A. There was only one.

21 Q. Are you familiar with cars Cadillac, Ford,
22 Chevy, are you familiar?

23 A. Yes.

24 Q. Can you tell me what make of car it was?

1 A. No.

2 Q. Let me take you back to what I asked you
3 about these three women. Now you say you were a
4 freshman at Bowen High School, correct?

5 A. Sophomore.

6 Q. Sophomore. And in none of your classes you
7 had a girl named Nicole De La Paz?

8 A. No.

9 Q. Never had a girl named Maria Choa?

10 A. No.

11 Q. You have no recollection of them names?

12 A. No.

13 Q. Isn't it true, Miss Gaeta, that you either
14 are or were a former SGD Latin gang member?

15 A. No.

16 Q. Never?

17 A. No.

18 Q. Never hung with them?

19 A. No.

20 Q. You never stated to Maria Choa that we have
21 got Ted now?

22 A. No, no, no.

23 Q. You and Nicole?

24 A. No.

1 THE COURT: Counselor, that -- I will address you
2 as counselor because of the manner in which you
3 conduct yourself. You do not repeat what the witness
4 has already answered. Kindly proceed.

5 DEFENDANT LUZCAK: Q. Thank you. Miss Choa, you
6 never had a conversation with Linda Luzcak?

7 THE WITNESS: A. No.

8 DEFENDANT LUZCAK: I have nothing further.

9 THE COURT: Do you have any additional questions?

10 MR. KELECIUS: No.

11 THE COURT: Thank you. You may step down. You
12 may call your next witness than aggravation.

13 MR. BROGAN: While my partner is getting the next
14 witness at this time we will be introducing as
15 People's Exhibit Number One for purposes of the
16 sentencing a certified statement, statement of
17 conviction bearing certification of Aurelia Puccinski,
18 submit as a self-authenticating document.

19 It is a certified statement of
20 conviction in the case of People of the State of
21 Illinois versus Theodore Luzcak under Case Number 89
22 CR dash 6784 slash 01, and this particular certified
23 statement of conviction indicates on February 2nd,
24 1990, the defendant was sentenced to six years

1 Illinois Department of Corrections in that particular
2 case, and the charge being criminal sexual assault,
3 and two counts of criminal sexual assault. We would
4 ask that that be had admitted into evidence during the
5 sentencing hearing.

6 THE COURT: Show it to the defendant.

7 It shall be allowed for the purpose of
8 aggravation.

9 MR. KELECIUS: Our next witness is Miss Paula
10 Sledge.

11 THE COURT: Will you, please, raise your right
12 hand?

13 (witness sworn.)

14 THE COURT: Please inquire.

15

16 P A U L A S L E D G E,

17 the witness herein, called as a witness on behalf of
18 the People of the State of Illinois, having been first
19 duly sworn, was examined and testified as follows:

20

21 DIRECT EXAMINATION

22 BY

23 MR. KELECIUS:

24

1 Q. Miss Sledge, would you tell us your full
2 name including your maiden name and your current
3 married name and if you could spell your name for the
4 record?

5 A. Paula Sledge, S-l-e-d-g-e. Coleman,
6 C-o-l-e-m-a-n.

7 Q. Miss Coleman, I want to direct your
8 attention to March the 8th of 1989. On March the 8th
9 of 1989 at about three o'clock in the afternoon, were
10 you walking in the area of 104th and Torrence in
11 Chicago, Illinois?

12 A. Yes.

13 Q. And, how old were you back on March 8th,
14 1989, as you were walking that area, 104th and
15 Torrence?

16 A. 14 years. 14 years old.

17 Q. How far away were you from your birthday at
18 that time?

19 A. Four days.

20 Q. And in four days you were to turn 15?

21 A. Yes.

22 Q. And as you were walking at that location
23 where were you heading?

24 A. To get something to eat.

1 Q. And back then were you enrolled in school?

2 A. Yes.

3 Q. What school were you enrolled in?

4 A. Elizabeth Seaton Academy.

5 Q. In what year school were you in at that
6 time?

7 A. Freshman going into my second year.

8 Q. And as you were walking to get something to
9 eat at that particular time did something happen?

10 A. Yes.

11 Q. What happened?

12 A. I was stopped at the corner. I was going
13 to cross the street and a car pulled up, and in that
14 car there was a guy by the name of Theodore Luzcak who
15 had asked me where was I going. I said to get
16 something to eat.

17 Q. Let me stop you right here. Had you ever
18 seen Theodore Luzcak prior to this?

19 A. Yes, I had.

20 Q. Tell us how many times had you seen him
21 prior to this?

22 A. Once.

23 Q. About how long ago was that prior to this?

24 A. In January of that year I would say about

1 two months ago -- two months previously.

2 Q. Do you see Theodore Luzcak in court?

3 A. Yes.

4 Q. Point to Theodore Luzcak and out tell us
5 what he is wearing today.

6 A. It's him right there. He's wearing I guess
7 tan pants, long sleeve shirt.

8 MR. KELECIUS: Judge, may the --

9 THE WITNESS: A. Black shirt.

10 MR. KELECIUS: She has identified the
11 defendant.

12 THE COURT: It shall.

13 MR. KELECIUS: Q. How is it that you met him
14 for the first time. Tell us how that happened.

15 THE WITNESS: A. I standing on the bus stop,
16 and he approached me and just made small conversation,
17 how are you doing, what's your name, things of that
18 nature.

19 Q. How long did you and he converse at the bus
20 stop that month earlier?

21 A. Maybe about four or five minutes.

22 Q. Then how did that conversation end?

23 A. The bus came and I got on the bus and left.

24 Q. I want to come back again. Now ON March

1 8th, 1989, when Mr. Luzcak pulled up again, what
2 happened when he pulled up in the car?

3 A. He offered to take me to get something to
4 eat, and I got in the back seat.

5 Q. Were there any other people in the car at
6 this time?

7 A. Yeah. There were two other people in the
8 car with him.

9 Q. Were they men or women?

10 A. Men.

11 Q. What part of the car were those two men in?

12 A. One is in the front seat, and one was in
13 the passenger seat, and one was in the back seat.

14 Q. And so now after you got into the back seat
15 there were now two people in the front and two people
16 in the back?

17 A. Um-humm, yes.

18 Q. Where did the defendant say he was to going
19 to give you a ride to?

20 A. Mac Donald on 95th and Jeffrey.

21 Q. Did he begin driving at that time?

22 A. No -- yeah. He began driving towards 95th
23 and Jeffrey.

24 Q. Where did he go first?

1 A. He said he had to drop one of his friends
2 off. They had to do something.

3 Q. At this time did he drop one of the two men
4 with him off?

5 A. Yeah.

6 Q. Do you remember approximately where that
7 was?

8 A. On maybe like 112th somewhere on the
9 southeast side, one of the avenues, Avenue O,
10 somewhere over there.

11 Q. After he dropped off one of the two men
12 with him at that particular time how many people were
13 in the car?

14 A. Just him me and the one in the back seat.

15 Q. And now after he dropped off the man who
16 was in the front seat did anybody change positions?

17 A. I got in the front seat.

18 Q. And so after you got in the front seat
19 there were two in the front and one man in the back?

20 A. Um-humm.

21 Q. You have to answer yes or no.

22 A. Yes, yes.

23 Q. What's the next thing then that happened?

24 A. He mentioned something that he wanted to

1 take his friend to buy some marijuana, and he took him
2 to buy the marijuana, and then somewhere along he
3 dropped him off, and then we went to -- it was some
4 place they called Wolf Lake or Beer Can Alley.

5 Q. How did you end up at Wolf Lake or Beer Can
6 Alley if he was supposed to take you to Mc Donalds?

7 A. I guess those were his intentions. I don't
8 know. I asked him where were we going, and he just
9 said I got to drop him off to do something.

10 Q. After he dropped off that last man, the man
11 in the back seat, there were only the two of you in
12 the car?

13 A. Right.

14 Q. Did you say anything to him when you
15 started driving, now just the two of you?

16 A. Yeah. I said it was time for me to get
17 home, it was getting kind of late, and I really needed
18 to go home. That's when he proceeded to go back down
19 I guess the Beer Can Alley like the winding road.

20 Q. Did you ask him anything about Mc Donalds
21 at this time?

22 A. Yeah. At this point it kind of blew my
23 mind. I had to go back home. I wasn't really
24 concerned about getting anything to eat then.

1 Q. So you didn't even bring up the subject?

2 A. No. I told him I wanted to go home.

3 Q. Where did he take you?

4 A. Down a winding road, Beer Can Alley.

5 Q. And, how secluded is Beer Can Alley?

6 A. It's -- it looks pretty scary over there
7 like a lake with a bunch of debris laying around, and
8 there's a lot of black gravel, winding road. It's not
9 a real pleasant place to be.

10 Q. What was the defendant saying to you as he
11 was driving you down those winding roads of Beer Can
12 Alley?

13 A. Just really saying everything is going to
14 be all right. I'll take you back home, things of that
15 nature to try and just smooth everything over.

16 Q. So what happened?

17 A. That's when we came to a stop and he asked
18 me was I a virgin.

19 Q. What did you say?

20 A. I told him yeah. He asked me had I ever
21 performed oral sex before. I'm like no. And, he
22 asked me to give him some head then, and he he made me
23 give him oral sex.

24 Q. What did you say to him?

1 A. I told him no, and he grabbed me around my
2 neck, and he told me if I ever wanted to see my family
3 again I better do what he tell me to do.

4 Q. Did you have family at this time?

5 A. Yes.

6 Q. What family did you have at this time?

7 A. Three brothers and two sisters and a mother
8 and a father.

9 Q. And when he had his hand on your throat and
10 said that to you, how did the hands feel on your
11 throat?

12 A. It was real tight and rough. He squeezed
13 it.

14 Q. Did it affect your breathing ability to
15 breathe at all?

16 A. I was able to breathe, but I started to cry
17 so I really became short of breath.

18 Q. So what happened?

19 A. He made me -- he pulled down his pants and
20 he made my perform oral sex.

21 Q. And, when he made you perform oral sex
22 where did he place his penis?

23 A. Inside of my mouth.

24 Q. How long did he have it in your mouth?

1 A. I don't know. He was more or less pushing
2 my head up and down making me do it.

3 Q. How was he holding on to your head?

4 A. I had a pony tail. He was holding it.

5 Q. And how did that end?

6 A. Then he asked me for anal sex and then he
7 kind of like flipped me to the passenger side.

8 Q. When you say he asked asked you for anal
9 sex could you tell us what his words were?

10 A. How have you ever been fucked in the ass
11 before.

12 Q. What did you say?

13 A. No.

14 Q. What did he say then?

15 A. Well, he said well -- something like I like
16 it. And he said something since you are a virgin, it
17 should be real nice and tight something to that
18 nature.

19 Q. What happened?

20 A. He pulled down my pants and he performed
21 anal sex.

22 Q. And when you say anal sex where did he
23 place his penis?

24 A. Inside of my anus.

1 Q. And, how long did he have his penis in your
2 anus?

3 A. Maybe 3 to 4 minutes.

4 Q. And was he still or was penis moving and
5 was he moving when he had his penis in your anus?

6 A. It was moving and he was moving.

7 Q. And, was he saying anything to you during
8 this time with his penis in your anus?

9 A. No.

10 Q. You have to answer out loud.

11 A. No. Not that I can remember.

12 Q. Were you saying anything to him during this
13 time?

14 A. Yes. I was screaming because it hurted.

15 Q. How much did it hurt?

16 A. It hurt real bad.

17 Q. And, how far into your anus did he put his
18 penis?

19 A. I would imagine all the way.

20 Q. And, how did this end?

21 A. I guess he had an ejaculation, and you know
22 it was just like, okay, I'm done, and then he say you
23 need to hurry up and put your clothes on; and so by
24 that time I'm saying you know I'm getting -- I told

1 him I have to get home.

2 I'm getting real scared and don't drop
3 me off in front of my house because I'm going to get
4 in trouble with my mother and father. He said so
5 you're not going to tell what happened. I said I
6 could never tell anyone because I had been in so much
7 trouble with my parents, then he said I will pick you
8 up from school tomorrow. Tell me what time you get
9 out, and I think I told him 1:30 or two o'clock or
10 something. So he said he promised to pick me up from
11 school and that he made me promise to him that I would
12 never tell anybody.

13 Q. And so where did he take you?

14 A. Back to 104th and Torrence.

15 Q. What happened when you got to 104th and
16 Torrence?

17 A. I got out of the vehicle.

18 Q. What happened then?

19 A. I went in to use the pay phone and then I
20 walked home from there.

21 Q. And, could you describe how you appeared at
22 this time?

23 A. My hair was all over my head. My clothes
24 were in disarray. I was crying and I just kind of

1 stumbled across the street to a friend's house.

2 Q. What happened?

3 A. He called the police.

4 Q. And did the police come?

5 A. Yes.

6 Q. And did you tell the police what happened?

7 A. Yes.

8 Q. Did the police take you some where?

9 A. To South Chicago Hospital.

10 Q. And at South Chicago Hospital were you
11 treated for being raped?

12 A. Yes. They did a series of tests and after
13 that the detectives came and they took me back to the
14 police station on 111th.

15 Q. And did they interview you there? Did you
16 tell them?

17 A. They interviewed me and they had me to look
18 at mug shot books.

19 Q. Now, I want to direct your attention to the
20 next day and the next date about three o'clock in the
21 afternoon. Did they have you look at a lineup at the
22 police station?

23 A. Yeah.

24 Q. After you looked at lineup did you identify

1 anybody?

2 A. Yes, I did.

3 Q. Who did you identify?

4 A. Theodore Luzcak.

5 Q. The same Theodore Luzcak that is in
6 courtroom today?

7 A. Yes.

8 Q. Miss Sledge-Coleman, did you later learn
9 that on February 2nd of 1990 the defendant pleaded
10 guilty and was sentenced to ten years in prison for
11 having raped you in Case Number 89 CR dash 6782 slash
12 1?

13 A. Yes, I did.

14 Q. Miss Sledge-Coleman, I would like to ask
15 you could you tell the Court what effect or impact
16 what Theodore Luzcak did to you had on you?

17 A. It's been a very long term effect. I have
18 had counseling. Counseling hasn't seemed to help
19 anything, so I have learned to really deal with it and
20 repress my feelings down and keep them to myself.

21 Q. How long did you go for counseling?

22 A. A year.

23 Q. In the beginning when it first happened did
24 it have any effect on your ability to sleep?

1 A. There were many, many, many, many, many
2 nights that I did not sleep. There were -- I lost a
3 lot of weight. I didn't want to eat. I have been
4 very antisocial.

5 Q. Were there any effects on the kind of
6 dreams that you were having?

7 A. I can't hear you.

8 Q. Was there any effect on the kind of dreams?

9 A. Nightmares, yes. There was serious
10 nightmares. There were many nights my mother and
11 father came in at night to comfort me.

12 Q. About how long a time period did the
13 nightmares last?

14 A. I still have nightmares to this day.

15 Q. And, could you tell us did it affect your
16 ability to function in any ways?

17 A. During my freshman year of high school my
18 grades dropped considerably after that. I was an
19 honor role student.

20 Q. Before this happened you were an honor role
21 student?

22 A. Yes.

23 Q. Afterwards?

24 A. They dropped.

1 Q. Did it affect your ability to function in
2 any other ways?

3 A. Socially I was just really stayed in the
4 house by my mom and that was it. I didn't want to be
5 around anyone, men in particular.

6 Q. How would you say that it affected you
7 emotionally?

8 A. My emotional state, I would sit and cry for
9 periods. I would try not to think about it. That
10 would be my best solution to it, but sometimes it's
11 just hard to bypass.

12 MR. BROGAN: I have no further questions.

13 THE COURT: Do you wish to inquire, Mr. Luzcak?

14

15 CROSS-EXAMINATION

16 BY

17 DEFENDANT LUZCAK:

18

19 Q. Good afternoon, Miss Sledge. I would like
20 to also take you back to the 8th of March, 1989.

21 A. Excuse me. Do I have to answer anything
22 from him?

23 THE COURT: He has a right to ask questions.

24 DEFENDANT LUZCAK: Q. Miss Sledge, you stated

1 through the state's attorney that you were on 101st
2 and Torrence Avenue waiting for a bus?

3 THE WITNESS: A. No, I did not say 101st and
4 Torrence Avenue.

5 Q. Was it one hundred?

6 A. 104th, and I was not waiting for a bus
7 there. I was going to get something to eat there.

8 Q. And when the car allegedly pulled up where
9 were you exactly?

10 A. I was getting ready to cross the street.

11 Q. Going to?

12 A. Across the street.

13 Q. East, westbound?

14 A. Westbound.

15 Q. Westbound?

16 A. Eastbound rather. I'm sorry. ~~East~~ East.

17 Q. Toward the lake?

18 A. There was no lake over there, not on
19 Torrence. There's no lake on Torrence.

20 Q. What I am saying you were going eastbound
21 towards the lake?

22 A. East, right.

23 Q. Thank you. And, you said you observed a
24 car with one passenger or three passengers?

1 A. Yeah.

2 Q. Can you tell the Ladies and Gentlemen --
3 can you tell the Court what you were wearing on that
4 date?

5 A. I was wearing a Seaton jogging suit.

6 Q. Seaton jogging suit?

7 A. With a black leather coat.

8 Q. And you stated to the state's attorney that
9 you had an encounter with defendant before this
10 previously?

11 A. Yes.

12 Q. And you knew him as Theodore Luzcak at that
13 time?

14 A. No, I did not, Jeffrey Schwabner. You were
15 in your girlfriend's white Z-24.

16 Q. You told the police this?

17 A. Before, yes, I did.

18 Q. I was in a -- strike that. I'm sorry. The
19 defendant was in the same car?

20 A. No. You were in a rental car, a white Ford
21 Taurus, maroon interior.

22 Q. On which day?

23 A. March 8th, 1989.

24 Q. The day of the occurrence?

1 A. Yes.

2 Q. And on the previous time the defendant was
3 in what kind?

4 A. A white Z-24. Shouldn't you remember this?

5 Q. And, who told -- who told you the name
6 Jeffrey Schwab?

7 A. You did.

8 Q. And then on the March date I told you my
9 real name?

10 A. You gave some bogus name as usual. Then
11 you said you had just been released from the Cook
12 County jail two weeks prior.

13 Q. How did you get Theodore Luzcak?

14 A. You mean how did the police get Theodore
15 Luzcak? Remember. Your friends.

16 Q. How did you?

17 A. I got your correct name from the officers.

18 Q. The police?

19 A. Yes.

20 Q. Didn't you state that --

21 A. Also went by Ted.

22 Q. Strike that.

23 What kind of clothing was it the
24 defendant was wearing on this date?

1 A. I really don't remember.

2 Q. Was he wearing a black jacket with the name
3 Ted on there?

4 A. I can't really remember. From my
5 understanding when you were arrested you had on a
6 black jacket with Ted on there.

7 Q. The police told you this, correct?

8 A. I'm not sure. From my understanding when
9 you were arrested that's what you were wearing.

10 Q. Can you tell me where you gathered the
11 information from the defendant was wearing a black
12 jacket with Ted on it?

13 A. No, I can't.

14 Q. You remember who told you that?

15 A. Yeah.

16 Q. But you remember hearing that?

17 A. Yeah.

18 DEFENDANT LUZCAK: No further questions.

19 MR. KELECIUS: We have no questions.

20 THE COURT: Mr. State's Attorney, it's my
21 understanding you do not have any additional live
22 witnesses today.

23 MR. KELECIUS: No. Same as with the last case I
24 do at this time offer as People's Exhibit Number Two

1 for purposes of sentencing the certified statement of
2 conviction and that will be certified statement of
3 conviction in Case Number 89 CR dash of 782 slash 01
4 as a certified statement of conviction certified by
5 Aurelia Puccinski, Clerk of the Circuit Court of Cook
6 County, and indicating that on February the 2nd of
7 1990, in the case of People of the State of Illinois
8 versus Theodore Luzcak the defendant was sentenced to
9 ten years in the Illinois Department of Corrections on
10 two counts of aggravated criminal sexual assault: I'm
11 showing this certified statement of conviction to Mr.
12 Luzcak.

13 THE COURT: So admitted, State.

14 MR. KELECIUS: I do offer this into evidence.

15 THE COURT: It shall be allowed in aggravation,
16 marked for identification, stricken.

17 MR. KELECIUS: Those are all the witnesses People
18 have. We are expecting a few others witnesses on
19 Friday. I do believe Mr. Luzcak has some defense
20 witnesses we might be able to take out of order.

21 THE COURT: In any event do you understand your
22 next date will be July 25?

23 DEFENDANT LUZCAK: Yes, sir.

24 THE COURT: At the time you may present

1 NICOLE RENEE DE LAPAZ,
2 called as a witness on behalf of the people of the
3 state of Illinois, having been first duly sworn, was
4 examined and testified as follows:

5

6 DIRECT EXAMINATION

7 BY

8 MR. BROGAN:

9

10 Q Miss, would you please tell us your name?

11 A Nicole Renee De Lapaz.

12 Q How did you spell your last name?

13 A D like in David, E-L-A-P-A-Z.

14 Q How old are you, Ms. De Lapaz?

15 A 25.

16 Q In February of 1989 were you attending
17 schooling?

18 A Where was I attending school?

19 Q Were you attending school?

20 A Yes. I was in high school.

21 Q What high school did you go to?

22 A George Washington High School.

23 Q What area is George Washington High School?

24 A It's on the south side of Chicago, 112th I

1 believe, on the east side.

2 Q I'm going to call your attention to February
3 14 of 1989 at about 8:00 o'clock in the morning, would
4 you tell us where you were and what you were doing?

5 A I was on Commercial Avenue going to get the
6 bus to go to school.

7 Q Were you able to catch that bus?

8 A No, I was running late.

9 Q Tell us what happened at that time?

10 A I seen Theodore Luczak and he asked me if I
11 needed a ride.

12 Q The person you refer to as Theodore Luczak,
13 do you see that person in court today?

14 A Yes. He is sitting over there.

15 Q Please point to him and describe an article
16 of clothing that he is wearing?

17 A I can't really see the colors.

18 Q Is it the man sitting by himself at the
19 table?

20 A Yes, sitting by himself at the left side.

21 MR. BROGAN: Your Honor, may the record reflect
22 the witness identified this defendant in open court.

23 THE COURT: It may.

24

1 BY MR. BROGAN:

2 Q When he asked you if you needed a ride was he
3 in a car?

4 A Yes, a white car. I don't know what kind,
5 small.

6 Q Was anyone else in the car with him?

7 A No. He was alone.

8 Q Did you agree to accept a ride from him?

9 A Yes. I knew him.

10 Q Where was he going to take you to?

11 A To school.

12 Q Did he take you right to school?

13 A Not right to school.

14 Q Tell us what happened when you got in the
15 car?

16 A He started talking about gangs and making
17 threats and saying that I knew things about gangs that
18 I shouldn't have known and he had to violate me.

19 Q Was there a particular gang that he was
20 talking about?

21 A Latin Kings.

22 Q Did he mention anything about his
23 relationship to the Latin Kings at that time?

24 A Yes. That he was a Latin King and he did

1 have some rank and say so in the gang.

2 Q You told us something about violating you.

3 Explain again what defendant said?

4 A At first I really didn't understand what he
5 meant. I was shocked I guess. He basically meant to
6 cause physical harm to me in some way.

7 Q The term violation, what does that term mean?

8 A He physically assaulted me.

9 Q Now, after he told you you would be -- he
10 told you you would be violated by the Latin Kings, is
11 that correct?

12 A By him.

13 Q Tell us why -- were you still in the car at
14 that point?

15 A Yes, the whole time.

16 Q Tell us where the car went?

17 A He went down Indianapolis towards an -- a
18 secluded alley, a part of Calumet Park.

19 Q Does that adjoin or abut any type of
20 landmark?

21 A It's connected with the beach.

22 Q Is water there?

23 A Yes. There is water there.

24 Q Did the defendant make any other threat to

1 you?

2 A He told me that he would kill me if I didn't
3 cooperate and if I told anybody about what happened.

4 Q And how did he say that he would kill you?

5 A He said that he would throw me in the lake
6 and drown me.

7 Q When you got to that location would you tell
8 us if the defendant did anything else or said anything
9 else?

10 A He called me a tease and --

11 THE COURT: Please keep your voice up.

12 THE WITNESS: He told me that I was a tease and
13 that he had to violate me.

14 BY MR. BROGAN:

15 Q Tell us what happened then?

16 A He somehow managed to get my seat to go back
17 and he got on top of me.

18 Q When he got on top of you what did he do?

19 A He tried to put his penis in my mouth.

20 Q Was he able to do that?

21 A No, he was not.

22 Q Why is that?

23 A Because I was fighting him off.

24 Q Tell us what happened then?

1 A He put his penis inside of my vagina.

2 Q What happened after that?

3 A Then he put his penis in my anus.

4 Q After that happened, Ms. De Lapaz, tell us
5 the next thing that took place?

6 A He kept threatening me, just telling me I
7 better not tell anybody else he would kill me.

8 Q From that location where did you then go?

9 A He took me to school from there.

10 Q And when you got to the area by school what
11 happened then?

12 A He told me not to tell anybody, not to tell
13 the cops or anybody and that he would be waiting for
14 me after school.

15 Q The area that you described as Beer Can
16 Alley, what part of the city of Chicago is that?

17 A It's still Illinois, south side.

18 Q That would be the southeast side?

19 A Uh-huh.

20 MR. BROGAN: I have no further questions.

21 THE COURT: You may inquire.

22

23

24

1 CROSS EXAMINATION
2 BY
3 BY MR. LUCZAK:
4

5 Q Good afternoon, Ms. De Lapaz?

6 A Good afternoon.

7 Q Ms. De Lapaz, I want to direct your attention
8 to February 14, 1989, at 9:00 o'clock in the morning.
9 Can you tell me anything that happened?10 A It was earlier than 9:00 o'clock in the
11 morning. I was running late for school.

12 Q What time was it?

13 A Around 8.

14 Q You then met the defendant?

15 A Yes, I met you on commercial.

16 Q Ms. Sagan, were you -- strike that. Ms. De
17 Lapaz, were you ever in a gang?18 A No, sir. I hung around with different
19 members from different gangs, I got along with
20 everybody.

21 Q You never had pitchforks on your chest?

22 A No, sir.

23 Q Did you know a lot of the gang members in the
24 South Chicago area?

1 A Yes.

2 Q Kings?

3 A I lived around all kings and I went to school
4 with a variety of members from different gangs.

5 Q Is anybody in your family a former gang?

6 MR. BROGAN: Objection as to relevance of this,
7 Judge.

8 THE COURT: I will sustain the objection.

9 THE WITNESS: To my knowledge, no --

10 THE COURT: You don't have to answer that..

11 BY MR. LUCZAK:

12 Q Were you with anybody on this day, Ms.
13 Sagan -- strike that. My fault. Ms. De Lapaz?

14 A No.

15 Q You were by yourself?

16 A Uh-huh.

17 Q On this day did you have occasion to talk to
18 a Ms. Maria Johnson?

19 A No, it was too early in the morning, I was
20 going to school.

21 Q Did you have occasion to talk to Marie
22 Johnson before that day?

23 A Yes, we were friends.

24 Q Did you ever tell Marie Johnson that you had

1 a crush on the defendant?

2 A No.

3 Q You never told her that?

4 A Never.

5 Q How do you know Ms. Johnson?

6 A How do I know her, from family and the
7 neighborhood.

8 Q Do you know if she's associated with a gang?

9 A Not to my knowledge, no.

10 Q So you say on this day you were going to
11 school. Can you tell me where you met the defendant?

12 A I don't remember the exact location, I know
13 it was on Commercial, because that's the path I take
14 to go to school. It's eight years ago. I don't
15 remember everything.

16 Q You have stated that the defendant told you
17 that he had to violate you?

18 A Yes.

19 Q Did he tell you why?

20 A All I remember him saying was I knew too much
21 information about the Kings, but I didn't even know
22 what information he was talking about.

23 Q Did he name a certain location where the
24 kings were from that you knew information about?

1 A Not that I recall, no.

2 Q You never stated to the police that it was
3 from the Latin Kings on the north side?

4 A No, I really don't think I would have said
5 that. I don't remember but I seriously doubt it, I
6 never went to the north side.

7 Q Why do you think the defendant would tell you
8 he had to violate you, Ms. De Lapaz?

9 A I really don't know, maybe because I lived in
10 the neighborhood. It was all Kings and a lot of them
11 didn't like me.

12 Q Maybe because you were in the opposite gang?

13 A No, because I talked to people from different
14 gangs.

15 Q Such as?

16 A Such as Counts, Folks, Vice Lords, whoever.

17 Q So you are --

18 A As friends at school. That's how I knew
19 everybody.

20 Q So you're saying the Kings were mad at you?

21 A The Kings didn't like the fact that someone
22 in their neighborhood talked to other people.

23 Q How long did you know the defendant before
24 this incident?

1 A I don't remember. It wasn't long. Maybe a
2 few months.

3 Q You never told the police you knew the
4 defendant for over a year before this incident?

5 A I don't remember, sir. It was over eight
6 years ago. I can't remember everything I told them
7 back then but whatever I told them was the truth.

8 Q Do you remember telling the police that you
9 and defendant went out on a couple of dates before?
10 You never told police that?

11 A No. I told them I had received a ride from
12 him once before and at that time I was with my cousin.

13 Q Who is your cousin?

14 A Paul -- I can't remember his last name. I
15 don't recall his last name right now. He has a
16 different last name, he is a relative.

17 Q So you had been with the defendant before
18 this occasion, right?

19 A I had been with defendant with Marie Johnson
20 and with my cousin.

21 Q On how many occasions would you say?

22 A Two that I remember before the rape.

23 Q Now, this alleged rape took place on February
24 14, 1989?

1 A Yes.

2 Q Can you tell me the date that you reported it
3 to the hospital?

4 A It was around two weeks later.

5 Q Can you tell the ladies and gentlemen of the
6 jury why it took you two weeks?

7 A Because I was afraid of the gangs and you and
8 for my life and the only reason I told was because I
9 got sick and ended up in the hospital due to the rape.

10 Q So it was a period of 14 days, 16 days?

11 A 14 to 16 days, that's correct.

12 Q And nobody else did anything to you within
13 that 16 days?

14 A No.

15 Q Ms. De Lapaz, isn't it true that your own
16 gang violated you too?

17 A I'm not in a gang.

18 Q Ms. De Lapaz you never were an SGD Latin?

19 A Never. I hung around them, I never was.

20 Q You never put pitchforks on your chest?

21 A No.

22 Q You never showed the defendant pitchforks on
23 your chest?

24 A I don't have a pitch fork on my chest, I have

1 a heart on my chest.

2 Q What does the heart represent?

3 A It's just a heart, just a design.

4 Q It doesn't represent a gang?

5 A No, sir.

6 Q Doesn't represent GD?

7 A No.

8 Q GD as far as cousin of the is LD's?

9 A Nothing with gangs.

10 MR. LUCZAK: Your Honor, I ask at this time to
11 question her later.

12 THE COURT: Side bar.

13 (The following proceedings were had
14 outside of the presence and hearing
15 of the jury:)

16 THE COURT: We're in chambers. Defendant and all
17 counsel are present.

18 What did you want to know?

19 MR. LUCZAK: For one I have a witness as to her
20 gang affiliation that I have found and I will tender
21 that over to the state.

22 THE COURT: Mr. State's Attorney.

23 MR. BROGAN: What are you tendering me?

24 MR. LUCZAK: That's what I said.

1 THE COURT: What is it you have?

2 MR. LUCZAK: I have a witness on the street that
3 can testify that she was in a gang, a reliable
4 witness. Also I have photographs.

5 THE COURT: Were you convicted of this offense
6 involving this woman?

7 MR. LUCZAK: Yes, I was.

8 THE COURT: Okay. What else is involved here. If
9 you put this on you may be opening the door to
10 introduce you were convicted of this offense.

11 MR. LUCZAK: They already know I was convicted of
12 this offense.

13 THE COURT: No they do not, sir. I scrupulously
14 kept that out. I'm trying to admonish you.

15 MR. LUCZAK: I have no further questions. I
16 thought you were going to introduce I was convicted of
17 this crime.

18 THE COURT: No. If you keep pursuing this they
19 can rehabilitate and very likely demonstrate.

20 MR. LUCZAK: Then I have no further questions.

21 THE COURT: Off the record.

22 (WHEREUPON, a discussion was
23 had off the record.)

24 MR. LUCZAK: I have no further questions.

1 THE COURT: Mr. Brogan, redirect if any.

2

3 REDIRECT EXAMINATION

4 BY

5 MR. BROGAN:

6

7 Q You have never dated this man, is that
8 correct?

9 A Never.

10 Q And you never told the police that you dated
11 this man, is that correct?

12 A Never did.

13 MR. BROGAN: No further questions.

14 THE COURT: Recross?

15 MR. LUCZAK: No recross, your Honor.

16 THE COURT: You may step down, madam.

17 THE COURT: We have one more witness.

18 (Witness sworn)

19 THE COURT: You may inquire.

20

21

22

23

24

1 that you are dangerous. You do prey and have preyed
2 upon the naive, the youthful, the helpless. And you do
3 propose a threat to society.

4 Accordingly, Mr. Luczak, for the offense of
5 aggravated criminal sexual assault to Sheri Sagan, the
6 offense of contact between penis and anus, which you
7 stand convicted, you are sentenced to an extended term
8 in the Illinois Department Of Corrections, the
9 penitentiary, for a term of 60 years. For the offense
10 of aggravated criminal sexual assault with Sheri
11 Sagan, between penis and mouth, which you stand
12 convicted, you are sentenced to 40 years, to be served
13 consecutively to the 60 year sentence I imposed upon
14 you.

15 You have, as you know, an absolute right to
16 appeal. I know are you indigent. A free transcript
17 will be given to you of the common-law record.
18 I will appoint counsel to represent you. That will be
19 the Public Defender of Cook County or the State
20 Appellate Defender.

21 I will admonish you, you must file a notice
22 of appeal within 30 days from today, which is,
23 for the record, June 27, 1997. If you like, I would
24 like the Public Defender who is appointed you, Miss

City)

(Municipal)

DEPARTMENT

Orchard

(Division)

(Dist)

People of the State of Illinois

v.

Theodore Luczak

Defendant

NO. 95CR14118-01
I. R. # 723379
S. I. D. # _____ORDER OF SENTENCE AND COMMITMENT TO
ILLINOIS DEPARTMENT OF CORRECTIONS

The defendant having been adjudged guilty of committing the offense(s) enumerated below,

IT IS ORDERED that the defendant Theodore Luczak be and is hereby sent to the ILLINOIS DEPARTMENT OF CORRECTIONS AS FOLLOWS:

In June 27, 1997 The Honorable Judge Edward M. Fiala Jr. sentenced the Dftt. to Sixty (60) years for the offense of Agg. Crim. Sex Assault and Forty (40) years for the offense of Agg. Crim. Sex Assault. Judgment entered. Sentence on Ct 5 term consecutive to Ct 2. Credit Dftt. for time served in custody.

To Mitt to issue.

Statutory Citation

720 Agg. Crim. Sex Assault

720 ILCS 5 1/2-14(A)(3)

720 Agg. Crim. Sex Assault

720 ILCS 5 1/2-14(A)(2)

inse

ILCS /

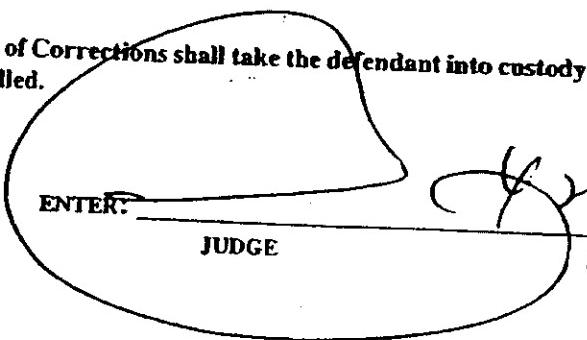
inse

ILCS /

IT IS FURTHER ORDERED that the Clerk of the Court shall deliver a copy of this order to the Sheriff of Cook County

IT IS FURTHER ORDERED that the Sheriff of Cook County shall take the defendant into custody and deliver him/her to the Illinois Department of Corrections.

IT IS FURTHER ORDERED that the Illinois Department of Corrections shall take the defendant into custody and confine him in the manner provided by law until the above sentence is fulfilled.

PREPARED BY
PUTY CLERK600
MUNIC-COURT
Room6/27/97
DATE

JUDGE'S NO.

C295

AURELIA PUCINSKI, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Original State Habeas Petition

Appendix # A

Appendix

#A - Original State Habeas Petition

#B - Denial of Petition in Circuit Court

#C - Notice of Appeal

#D - Extension of Time To File Record

#E - Letter Requesting Clerk to File Record

#F - Order of Appellate Court Dismissing Appeal

#G - Writ to Illinois Supreme Court

#H - Illinois Supreme Court Denial of Writ

#I - Petition for Leave to Appeal for DNA Evidence.

IN THE
CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT--CRIMINAL DIVISION

Theodore Luczak

Petitioner,

. v.

Guy D. Pierce

Respondent,

HABEAS CORPUS PETITION

Theodore Luczak Pro-Se;
Reg No:#B-00780
Pontiac Correctional Center
700 W. Lincoln St./P.O. Box 99
Pontiac, Illinois 61764

IN THE
CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT--CRIMINAL DIVISION

Theodore Luczak]
] Petitioner,]
]]
]]
.vs.] Case No: 89-CR-06782
] 89-CR-06783
] 89-CR-06784
]
Guy D. Pierce] Honorable
] JOHN J. MANNION
Respondent,] Judge Presiding

HABEAS CORPUS PETITION

To: Circuit Court of Cook County, Illinois.

The petition of, Theodore Luczak, for Habeas Corpus
pursuant to 735 ILCS §§5/10-102; 5/2-1401.

[1] I, Theodore Luczak, pro-se; in whose behalf the
petition is applied for, is confined or restrained of liberty at
the Pontiac Correctional Center. Pontiac, Illinois 61764, Living-
ston County, by Warden Guy D. Pierce, respondent above named, Ch-
ief Administrative Officer of said correctional center.

[2] Name and location of court under whose process pet-

itioner is confined) District Six(6) 16501 S. Keezie Parkway.

Markham, Illinois 60426.

[3] Name of the crime and case number resulting in confinement: Aggrevated Criminal Sexual Assault. 89-CR-06782; 89--CR-06783 and 89-CR-0674.

[4] The length of sentence is Ten(10) years, and a copy of the commitment is not attached hereto as the clerks office will not provide the petitioner a copy of such.

[5] The date of judgement is February 02, 1990.

[6] I entered a plea of guilty.

[7] An appeal was not taken.

[8] An appeal was not taken due to the ineffectice assistance of counsel.

[9] No other application, petition, or motion has been filed or made in regard to the same detention or restraint.

[10] I believe that I am being held unlawfully on the following ground:

(A) **Ground one:** On March 23, 1989, petitioner was indicted for the

of use of AGG CRIM SEX ASSAULT pursuant to Capt 1 38 §12-14-A(3).
in the Circuit Court of the Sixth District. Through testimony of
the alleged victims, in case number **95-CR-1411801**, it was demon-
strated that the assaults took place in the State of Indiana and
not the State of Illinois, thus the Circuit Court was without jur-
isdiction to accept the petitioner's plea of guilty; or to prosecute
the petitioner in the State of Illinois. **People ex rel. Merrill v.**
Hazard, 361 Ill. 60, 196 N.E. 827 (1935)

In case number **89-CR-06784**, the alleged victim test-
ified to the fact that she and the petitioner drove over from the
Illinois border too the Indiana border and that the alleged assault
took place over the tracks; which is the State of Indiana. (See Ex-
hibit #1)

In case number **89-CR-06782**, the alleged victim also
testified to the fact that the assault took place in Beer Can Alley
which is in the State of Indiana. (See Exhibit #2)

In case number **89-CR-06783**, the alleged victim also
testified to the fact that she and the petitioner drove over from
the Illinois border too the Indiana border and that the alleged
assault took place over the tracks; which is the State of Indiana.
(See Exhibit #3)

Petitioner argues that, a habeas petitioner may appeal
any prior conviction that was used to enhance a sentence or gain a

conviction, even if that conviction sentence has expired. Clay v. McBride, 946 F.Supp. 639; Tredway v. Farley, 35 F.3d 288, 292; Crank v. Duckworth, 905 F.2d 1090. In the case at bar, the three above cases were used to enhance the petitioner's sentence in case number 95-CR-1411801 and one was used to gain a conviction in said case. Petitioner now argues that through the testimony used at his trial in case number 95-CR-1411801, it has been demonstrated that the alleged offenses committed in case numbers 89-CR-06782, 83, and 84, said offenses were committed in the State of Indiana, and the State of Illinois was without any jurisdiction to prosecute and or accept a plea of guilty from the petitioner.

Jurisdiction of the subject matter is the power of a court to hear and determine causes of the general class to which the proceeding in question belongs, and such jurisdiction is always conferred only by law. In its application to a certain controversy, jurisdiction means the power and authority to hear and determine the issue involved in the cause. Woodward v. Ruel, 355 Ill. 163, 188 N.E. 911; People v. Ford, 289 Ill. 550, 124 N.E. 549. Thus; since the circuit court lacked jurisdiction over the case at bar, the judgment is void. It is well established, that where the judgment and conviction is entirely void a discharge should be granted. People v. Whitson, 74 Ill. 20; People v. Foster, 104 Ill. 156. In the case at bar, the petitioner is entitled to a writ of habeas corpus; where the defects are so radical as to render the judgment absolutely void. People v. Allen, 160 Ill. 400, 43 N.E. 332.

currently pending () the Circuit Court of Cook County, and is attached hereto as appendix #A.

WHEREFORE, petitioner prays that a Petition Of Habeas Corpus directed to the respondent above named, issued for the purpose of inquiring into the cause of the imprisonment and restraint of the petitioner, and the delivering him therefrom, pursuant to law.

Respectfully Submitted

Theodore Luczak
Theodore Luczak Pro-Se;
Reg No:#B-00780
Pontiac Correctional Center

AFFIDAVIT

I, Theodore Luczak, deposes and says that as to the petition herein, he is the petitioner in the above entitled cause; that he has read the foregoing documents, by him signed and that the statements contained therein are true in substance and in fact.

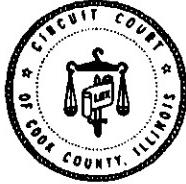
Respectfully Yours

Theodore Luczak
Theodore Luczak Pro-Se;

Denial of Petition In Circuit Court

Appendix #B.

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT



CRIMINAL BUREAU
2650 S. California
Room 526
Chicago, Illinois 60608
(773) 869-3141
FAX (773) 869-4444
www.cookcountyclerkofcourt.org

OFFICE OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

18 December 2006

Mr. Theodore Luczak
Reg. No B00780
Stateville Correction Center
P.O. Box 112
Joliet, Illinois 60434

Re: Criminal Cases - 89 CR 06782 - 89 CR 06783 – 89CR 06784

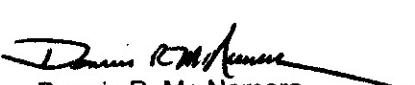
Dear Mr. Luczak:

The letter that you sent to the Appellate Court, dated 4 December 2006, was forwarded to the Criminal Division of the Clerk of the Circuit Court's Office for further review. As previously stated in my letter dated 8 December 2006, the court file jacket will be reviewed to determine if a copy of the Notice of Appeal, dated 18 August 2006 is in the court file. Or alternatively, you may submit a copy of the previously filed Notice of Appeal for processing.

In your letter, you allege that the habeas corpus petition was ".....never placed on the court's call line and/or docket." The petition was scheduled for a hearing before Judge John J. Mannion, in Court Room 107, located in the Bridgeview court facility. That hearing took place on 19 July 2006 and is reflected in the copy of the document that was enclosed with your letter. I have enclosed a copy of the Electronic Docket which confirms that the court denied your petition.

Questions and further inquiries related to this matter should direct to Leo Lastre, Chief Deputy Clerk of the Criminal Division. Mr. Lastre office is located at 2600 S. California Avenue, Chicago, Illinois 60608

Respectfully,


Dennis R. Mc Namara
Associate Clerk – Criminal Bureau

cc: Cindy Wile
Bernadette Freeman
Leo Lastre
Appeal Team
Correspondence File

(A) p410 - PASSPORT

CASE: 89CR0678301 S (START OF FELONY CASE)
DEFENDANT NAME: THEODORE LUCZAK
122805-
COMMON LAW RECORD PREPARED 000000
1VOL
CLERK'S OFFICE

011206-
CLR RECD BY APP COUNSEL 000000
PUBLIC DEFENDER - ONE VOLUME
CLERK'S OFFICE

071906-
HABEAS CORPUS PETITION DENIED 000000
MANNION, JOHN J.
ROOM 107

120606-
SUPPLEMENTAL CLR PREPARED 000000
ONE VOLUME
CLERK'S OFFICE

ENTER=CONTINUE PF3=RETURN PF7=BKWRD PF8=FRWD PF10=RESET PF12=PRINT CLEAR=EXIT
=> PRINT THE FOLLOWING PAGES PAGE: 001 THRU 014 DESTINATION _____

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 89CR0678201

THEODROE LUCZAK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

38-12-14-A(3)	F	AGG CRIM SEX ASSAULT
38-12-14-A(3)	F	AGG CRIM SEX ASSAULT
38-12-13-A(1)	F	CRIM SEXUAL ASSAULT
38-12-13-A(1)	F	CRIM SEXUAL ASSAULT
38-10-2-A(3)	F	AGGRAVATED KIDNAPPING
38-12-16-D	F	AGG CRIM SEX ABUSE
38-12-16-D	F	AGG CRIM SEX ABUSE
38-10-3-A	F	UNLAWFUL RESTRAINT

The following disposition(s) was/were rendered before the Honorable Judge(s):

03/23/89 IND/INFO-CLK OFFICE-PRES JUDGE FITZGERALD, THOMAS R.	04/07/89 1701
04/07/89 DEFENDANT ARRAIGNED BASTONE, ROBERT P.	
04/07/89 PLEA OF NOT GUILTY BASTONE, ROBERT P.	
04/07/89 CASE ASSIGNED BASTONE, ROBERT P.	04/14/89 6713
04/14/89 CONTINUANCE BY AGREEMENT MANNION, JOHN J.	04/20/89
04/20/89 CONTINUANCE BY AGREEMENT MANNION, JOHN J.	05/25/89
05/25/89 CONTINUANCE BY AGREEMENT MANNION, JOHN J.	06/21/89
06/21/89 MOTION DEFT - CONTINUANCE - MD MANNION, JOHN J.	07/06/89
07/06/89 CONTINUANCE BY ORDER OF COURT MANNION, JOHN J.	07/07/89
07/07/89 CONTINUANCE BY AGREEMENT MANNION, JOHN J.	07/21/89
07/21/89 CONTINUANCE BY AGREEMENT MANNION, JOHN J.	08/17/89

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 002

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 89CR0678201

THEODROE LUCZAK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
08/17/89 MOTION DEFT - CONTINUANCE - MD	08/31/89
MEEKINS, FRANK W.	
08/31/89 CONTINUANCE BY AGREEMENT	09/28/89
MANNION, JOHN J.	
09/28/89 CONTINUANCE BY AGREEMENT	10/17/89
MANNION, JOHN J.	
10/17/89 CONTINUANCE BY AGREEMENT	11/13/89
MANNION, JOHN J.	
11/13/89 CONTINUANCE BY AGREEMENT	12/08/89
MANNION, JOHN J.	
12/08/89 CONTINUANCE BY AGREEMENT	01/17/90
MANNION, JOHN J.	
01/17/90 CONTINUANCE BY AGREEMENT	02/02/90
MANNION, JOHN J.	
02/02/90 PG JW FINDING GUILTY	C001
MANNION, JOHN J.	
02/02/90 PG JW FINDING GUILTY	C002
MANNION, JOHN J.	
02/02/90 NOLLE PROSEQUI	C003
MANNION, JOHN J.	
02/02/90 NOLLE PROSEQUI	C004
MANNION, JOHN J.	
02/02/90 NOLLE PROSEQUI	C005
MANNION, JOHN J.	
02/02/90 NOLLE PROSEQUI	C006
MANNION, JOHN J.	
02/02/90 NOLLE PROSEQUI	C007
MANNION, JOHN J.	
02/02/90 NOLLE PROSEQUI	C008
MANNION, JOHN J.	
02/02/90 DEF DEMAND FOR TRIAL	
MANNION, JOHN J.	
02/02/90 DEF SENTENCED ILLINOIS DOC	C001
EACH COUNT CONCURRENT	
10 YRS	
MANNION, JOHN J.	
02/02/90 DEF SENTENCED ILLINOIS DOC	C002
10 YRS	
MANNION, JOHN J.	

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 003

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 89CR0678201

THEODROE LUCZAK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION
02/02/90 CREDIT DEFENDANT FOR TIME SERV

CREDIT FOR 339 DAYS SERVED

MANNION, JOHN J.

03/04/05 SPECIAL ORDER	00/00/00
JAIL MAIL MOTION - DENIED	
MANNION, JOHN J.	
06/24/05 NOTICE OF APPEAL FILED, TRNSFR	00/00/00
06/27/05 HEARING DATE ASSIGNED	07/01/05 1713
07/01/05 SPECIAL ORDER	00/00/00
LATE NOTICE OF APPEAL DENIED	
BIEBEL, PAUL JR.	
08/04/05 NOTICE OF APPEAL FILED, TRNSFR	00/00/00
08/09/05 NOTICE OF NOTICE OF APP MAILED	00/00/00
08/09/05 HEARING DATE ASSIGNED	08/12/05 1713
08/12/05 PUBLIC DEF APPTD FOR APPEAL	00/00/00
BIEBEL, PAUL JR.	
08/12/05 O/C FREE REPT OF PROCD ORD N/C	00/00/00
BIEBEL, PAUL JR.	
08/12/05 MEMO OF ORDS & NOA PICKED-UP	00/00/00
BIEBEL, PAUL JR.	
08/25/05 APPELLATE COURT NUMBER ASGND	00/00/00 05-2377
12/07/05 REPT OF PRCDS ORD FR CRT RPT	00/00/00
12/28/05 COMMON LAW RECORD PREPARED	00/00/00
1 VOL	
01/12/06 CLR RECD BY APP COUNSEL	00/00/00
PUBLIC DEFENDER - ONE VOLUME	
02/27/06 CONTINUANCE BY AGREEMENT	03/10/06 6715
MANNION, JOHN J.	
03/10/06 DEFENDANT IN CUSTODY	00/00/00
IDOC 890	
MANNION, JOHN J.	
03/10/06 CONT FOR STATUS OR PROG REPT	06/09/06 6715
MANNION, JOHN J.	
06/09/06 DEFENDANT IN CUSTODY	00/00/00
MANNION, JOHN J.	
06/09/06 PRISONER DATA SHEET TO ISSUE	00/00/00
MANNION, JOHN J.	

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 004

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 89CR0678201

THEODROE LUCZAK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
06/09/06 CONT FOR STATUS OR PROG REPT	09/08/06 6715
MANNION, JOHN J.	
07/19/06 HABEAS CORPUS PETITION DENIED	00/00/00
MANNION, JOHN J.	
09/08/06 SPECIAL ORDER ON CALL IN ERROR	00/00/00
MANNION, JOHN J.	

I hereby certify that the foregoing has been entered of record on the above captioned case.
Date 11/01/06

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT OF COOK COUNTY

Notice of Appeal

Appendix # C.

IN THE
CIRCUIT COURT OF COOK COUNTY, ILLINOIS
SIXTH JUDICIAL CIRCUIT

Theodore Luczak #B-00780

]

Petitioner

]

]

]

]

. vs.

] Case No: 89-CR-06782
] 89-CR-06783
] 89-CR-06784

]

Eddie Jones

] Honorable

Respondent,

] JOHN J. MANNION
] Judge Presiding

NOTICE OF APPEAL

An appeal is taken from the Order or Judgment described below:

[1] Theodore Luczak, pro-se; appellant is appearing pro-se; and notice shall be sent to: Reg No:#B-00780. Pontiac Correctional Center. 700 West. Lincoln St./P.O. Box 99. Pontiac, Illinois 61764.

[2] An appeal is being taken to the Illinois Appellate Court, First District.

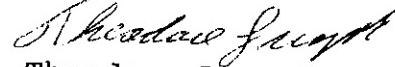
[3] On April 05, 2006, the appellant filed a State Habeas Corpus pursuant to 735 ILCS §§5/10-102 5/2-1401, as the circuit court lacked any jurisdiction over the cause of action.

[4] It has been well over thirty(30) days since the appellant has mailed his proceeding to the clerk of the court; and as of the drafting of this notice, the clerk has refused to file and or send the appellant a stamp filed copy of his proceeding.

[5] The appellant has a meritorious claim before the court, as the record clearly demonstrates that the crime in this cause of action has occurred in the State of Indiana; and that the State of Illinois was without jurisdiction over the matter.

Dated: May 05, 2006.

Respectfully Yours



Theodore Luczak Pro-Se;
Reg No:#B-00780
Pontiac Correctional Center
700 West. Lincoln St.?P.O. Box 99
Pontiac, Illinois 61764

STATE OF ILLINOIS)
COUNTY OF LIVINGSTON)
)ss.

AFFIDAVIT OF SERVICE

I, Theodore Luczak, state that I have served a copy of the document to which this affidavit is attached, upon each party or if represented by counsel, upon the attorney of record for said party, by enclosing the same in a sealed envelope plainly addressed as is disclosed by the pleadings of record herein; and by depositing the same of each said envelope in the bars designed for United States Mail at the Pontiac Correctional center. Pontiac, Illinois 61764, together with the appropriate request to the prison officials responsible to affix fully prepaid postage thereto, on this 8th day of May 2006.

Service made on: Richard A. Devine
Cook County States Attorney
First Municipal Department
Richard J. Daley Center--Room 1006
Chicago, Illinois 60602

I, Theodore Luczak, the undersigned, certify and state that:

- [1] I am the appellant in the attached cause of action.
- [2] I have read the foregoing Notice of Appeal, and have knowledge of its contents.
- [3] Under penalties provided by law, pursuant to 735 ILCS §1-109 of the Civil Code of Procedures, I certify that the statement set forth in this proceeding and affidavit are true and correct.

Respectfully Submitted

Theodore Luczak
Theodore Luczak Pro-Se;
Reg No:#B-00780

() ()
Extension of Time To File Record On Appeal

Appendix # D

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

People State of Illinois
Plaintiff-Appellee,

Appeal from the Circuit Court
of Cook County, Illinois

. vs.

Cir. Ct. No. 89-CR-6782

Theodore Luczak
Defendant-Appellant.

Honorable
John Mannion
Judge Presiding

NOTICE AND PROOF OF SERVICE

To:

Richard A. Devine
State's Attorney of Cook County
309 Richard J. Daley Center
Chicago, Illinois 60602

Please take notice that on March 12, 2007, I have placed in the U.S. mail at the Stateville Correctional Center, one (1) original and four (4) copies of a Motion for Extension of Time and Docketing Statement, a copy of which is attached hereto and herewith served upon you.

15/07/2007
Theodore Luczak

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

People State of Illinois

Plaintiff-Appellee,

vs.

Theodore Luczak

Defendant-Appellant.

} Appeal from the Circuit Court
of Cook County, Illinois

} Cir. Ct. No. 89-CR-6782

} Honorable

} John Mannion

} Judge Presiding

MOTION FOR EXTENSION
OF TIME IN WHICH TO FILE THE RECORD ON APPEAL

The Defendant-Appellant, Theodore Luczak, pro-se, respectfully moves this Honorable Court, pursuant to Supreme Court Rule 343(c), asks this Honorable Court for an extension of time to and including March 30, 2007, for the filing of the Record in this cause of action. The defendant-Appellant states the following in support of his Motion.

- 1.) This is an appeal from the dismissal of a State Habeas Corpus Petition.

- () ()
- 2.) Defendant was charged with aggravated criminal sexual assault; aggravated kidnapping; aggravated criminal sexual abuse, and unlawful restraint under Indictment No. 89-CR-6782.
- 3.) Defendant was convicted of aggravated criminal sexual assault; and was sentenced to ten (10) years imprisonment in the Illinois Department of Corrections.
- 4.) That on July 19, 2006, defendant-appellants State Habeas Petition was summarily dismissed.
- 5.) Defendant is currently incarcerated at the Stateville Correctional Center.
- 6.) Notice of Appeal was filed on August 18, 2006.
- 7.) The record on this appeal is now due, but the clerk of the court has failed to file the record in the appellate court first district.

THEREFORE, defendant-appellant respectfully

request an extension of time to and including March 30, 2007, in which to file the record on appeal.

1510 Theodore Luczak

Theodore Luczak Pro-Se:

Reg No: B-00780

IN THE

APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

People State of Illinois
Plaintiff-Appellee,

. vs.

Theodore Luczak
Defendant-Appellant;

Appeal from Cook County
Cir. Ct. No. 89-CR-6782
Notice of Appeal: 8/18/06
Trial Judge: John Mannion
Felony
In Custody

DOCKETING STATEMENT
(Criminal)

Counsel on Appeal
For Appellant
Theodore Luczak Pro-Se,
Reg No B-00780
Stateville Correctional Center
Route 53, Post Office Box 112
Joliet, Illinois 60434

Counsel on Appeal
For Appellee(s)

Richard A. Devine
State's Attorney
300 Daley Center
Chicago, Illinois 60602

Court Reporter(s)

Defendant-Appellant has not been provided a copy of the report of proceeding in this cause of action.

Nature of Case

(v) Guilty Plea

General Statement of issues proposed to be raised.

The sentencing court had no jurisdiction to try and/or accept a guilty plea, as the offense charged was committed in the State of Indiana.

I, Theodore Luczak, pro-se, defendant-appellant, hereby certify that on August 18, 2006, I asked the clerk of the circuit court to prepare the record, and on August 18, 2006, I also made a written request to the court reporters

office to prepare the transcript(s). The attached transcripts,
I am requesting to be made part of the record.

March 12, 2007

1st Theodore Fucat
Defendant Pro-Se

I hereby acknowledge receipt of an order for the preparation of a report of proceedings.

Date

Court Reporter or Supervisor

STEVEN M. RAVID CLERK OF THE APPELLATE COURT 1st DISTRICT

STATE OF ILLINOIS

)
SS.

COUNTY OF WILL

AFFIDAVIT

Theodore Luczak, being first duly sworn on oath, deposes and says that affiant is appearing pro-se; that affiant has read the foregoing Motion and Docketing Statement by me subscribed; that affiant knows the contents therein; and that upon information available to him the same is true in substance and in fact.

Pursuant to 735 ILCS 5/109, I declare under penalty of perjury, that everything contained herein is true and accurate to the best of my knowledge and belief. I further declare and affirm, that the matter at hand is not taken either frivolously or maliciously, and that I believe the foregoing matter is taken in good faith.

15/1 Theodore Luczak

Theodore Luczak Pro-Se

() ()
Letter Requesting Clerk To File Record
On Appeal

Appendix # E

Reg No. B-00780
Stateville Correctional Center
Route 53 Post Office Box 112
Joliet, Illinois 60434

May 10, 2007.

Dorothy Brown
Clerk of the Circuit Court of Cook County
County Department - Criminal Division
2650 S. California Ave., 5th Floor
Chicago, Illinois 60608

RE: Appeal 06-3645

Dear Miss/Mrs. Brown:

I am writing you this letter; in which to request to know if your office has sent the record on the above appeal, to the clerk's office at the Appellate Court 1st District. Illinois Supreme Court Rule 324 mandates that you do so.

IS/T Theodore Laczak

DO NOT MAIL
Theodore Laczak

CLERK OF CIRCUIT COURT
CRIMINAL DIVISION

2007 MAY 14 PM 2:34

RECEIVED

c.c./filed.

Order of Appellate Court Dismissing Appeal

Appendix # F

IN THE APPELLATE COURT, STATE OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)
)
Plaintiff-Appellee,)
)
v.) No. 06-3645
THEODORE LUCZAK,)
)
Defendant-Appellant.)
)
)
)
)

ORDER

On the Court's own motion, the Defendant-Appellant having been given two extensions of time to file the record on appeal; the record on appeal having been originally due by September 8, 2006; no record on appeal having been filed;

IT IS HEREBY ORDERED that this appeal is DISMISSED FOR WANT OF PROSECUTION.

ORDER ENTERED
MAY 18 2007
APPELLATE COURT, FIRST DISTRICT

Margaret Russell
JUSTICE
Barbara J. Hartigan
JUSTICE
John P. Kelly
JUSTICE

Writ of Habeas Corpus to Illinois Supreme Court

Appendix # G



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING

SPRINGFIELD 62701

JULEANN HORNYAK
CLERK OF THE COURT
(217) 782-2035

TELECOMMUNICATIONS DEVICE
FOR THE DEAF
(217) 524-8132

August 9, 2007

FIRST DISTRICT OFFICE
20TH FLOOR
160 N. LASALLE ST.
CHICAGO 60601
(312) 793-1332

TELECOMMUNICATIONS DEVICE
FOR THE DEAF
(312) 793-6185

Mr. Theodore Luczak
Reg. No. B-00780
Stateville Correctional Center
P. O. Box 112
Joliet, Illinois 60434

Re: M11908 - Theodore Luczak, petitioner, v. Terry McCann, etc.,
respondent. Habeas Corpus.

Dear Mr. Luczak:

This office has today filed your motion for leave to file a petition for writ of habeas corpus, styled as set forth above. You are being permitted to proceed as a poor person.

Your motion will be referred to the Court, and you will be advised as to the action taken.

In accordance with your request, we are returning with this letter a file-stamped copy of your motion.

Very truly yours,

Juleann Hornyak
Clerk of the Supreme Court

JH/jak
Enclosure
cc: AG CrMadigan

11908

NO.

IN THE

SUPREME COURT OF ILLINOIS

Theodore Luczak,)	Habeas Corpus
)	
Petitioner)	
)	
v.)	
)	
Terry McCann, Warden of Stateville)	
Correctional Center,)	
)	
Respondent)	

MOTION BY PETITIONER FOR LEAVE TO FILE A
PETITION FOR WRIT OF HABEAS CORPUS

FILED

AUG 9 - 2007

SUPREME COURT
CLERK

Theodore Luczak
Reg. No. B-00780
Stateville Correctional Center
P. O. Box 112
Joliet, Illinois 60434

() ()

IN THE
ILLINOIS SUPREME COURT

Theodore Luczak

Petitioner-Appellant.

vs.

~~Guy D. Pierce~~

Respondent-Appellee

Appeal from the Circuit Court of
Cook County, Illinois

Indict No: 89-CR-06782, 83 and 84.

Appeal No:

Honorable

John J. Mannion

Judge Presiding

HABEAS CORPUS PETITION
SUPREME COURT RULE 381
ARTICLE VI, SECTION 4(A) OF THE CONSTITUTION

To: Illinois Supreme Court.

The petition of, Theodore Luczak, for Habeas Corpus pursuant to Supreme Court Rule 381, and Article VI, section 4(A) of the Illinois Constitution.

FACTUAL BACKGROUND

Following a jury trial, petitioner was convicted on two counts of aggravated criminal sexual assault. Prior to trial, the State moved to introduce evidence of petitioner's prior crime, arguing that evidence of the other crime established petitioner's criminal intent at the time of the charged crime and petitioner's modus operandi. Over objection, the trial court granted the States motion, and stated that the evidence of the other crime demonstrated petitioner's modus operandi and criminal intent.

At trial, the alleged victim testified to the fact that the assault took place in Beer Can Alley; which is in the State of Indiana. (T.R. D-173-187)

PROCEDURAL HISTORY

On July 7, 1997, petitioner, represented by an appointed Public Defender of Cook County, filed his Direct Appeal that was affirmed by the Appellate Court First District on June 14, 1999. People v. Luczak, 306 Ill.App.3d 319, 714 N.E.2d 995.

On July 13, 1999, petitioner filed a pro se petition for Leave to Appeal to the Illinois Supreme Court, that was denied on October 6, 1999, pursuant to Illinois Supreme Court Rule 23.

On November 23, 1999, petitioner filed a pro se, Writ of Certiorari to the United States Supreme Court. The United States Supreme Court denied petitioner's writ on February 22, 2000. *People v. Luczak*, 528 U.S. 1164.

On March 27, 2000, petitioner filed a pro se, Petition for Post-Conviction Relief, that was subsequently denied in the Circuit of Cook County on April 6, 2000.

On April 5, 2001, petitioner's appointed attorney for his post conviction appeal, filed a motion to withdraw as counsel pursuant to *Pennsylvania v. Finley*, and petitioner filed his response to counsels motion to withdraw on May 22, 2001. On June 25, 2001, in an unpublished order, the Appellate Court found no issues of arguable merits, granted the appointed attorney's motion to withdraw as counsel and affirmed the judgment of the circuit court.

Petitioner filed his second pro se petition for leave to appeal to the Illinois State Supreme Court on August 6, 2001, that was subsequently denied on October 3, 2001, in an unpublished order.

On January 14, 2002, petitioner filed a pro se writ of habeas corpus in the United States District Court for the Northern District of Illinois, that was subsequently denied on March 24, 2003.

Petitioner also has a petition for leave to appeal currently pending before this Honorable Court for the denial of his motion

requesting DNA testing pursuant to 116-3.

A. Ground One:

On March 23, 1989, petitioner was indicted for the offense of Aggravated Criminal Sexual Assault, pursuant to Chapter 38 §12-14-A(3), in the Circuit Court of the Sixth Judicial District. On February 1, 1990, petitioner entered a plea of guilty in case number's 89-CR-06782, 89-CR-06783, and 89-CR-06784, through trial testimony in case number 95-CR-1411801 it was demonstrated that the assaults in case number's 89-CR-06782, 06783, and 06784 took place in the State of Indiana and not the State of Illinois, thus the Circuit Court was without jurisdiction to accept the petitioner's plea of guilty or to prosecute the petitioner in the State of Illinois. People ex rel. Merril v. Hazard, 361 Ill. 60, 196 N.E. 827 (1935)

In case number 89-CR-06784, the alleged victim testified to the fact that she and the petitioner drove over the Illinois border and that the assault took place in Beer Can Alley, which is in the State of Indiana. (See Appendix #A)

In case number 89-CR-06783, the alleged victim testified to the fact that she and petitioner drove over the Illinois border and that the assault took place in Beer Can Alley, which is in the State of Indiana. (See Appendix #B)

In case number 89-CR-06782, the alleged victim testified to the fact that she and the petitioner drove over the Illinois border and that the assault took place in Beer Can Alley, which is in the State of Indiana. (See Appendix #C)

At sentencing, the State moved the court to enhance the petitioner's sentence based on the convictions in case numbers 89-CR-06782, 06783, and 06784.

A petitioner may appeal any prior conviction that was used to enhance a sentence or gain a conviction, even if that conviction and sentence has expired. Clay v. McBride, 946 F.Supp. 639; Tredway v. Farley, 35 F.3d 288, 292; Crank v. Duckworth, 905 F.2d 1090.

Jurisdiction of the subject matter is the power of a court to hear and determine causes of the general class to which the proceeding in question belongs, and such jurisdiction is always conferred only by law. In its application to a certain controversy, jurisdiction means the power and authority to hear and determine the issue involved in the case. Woodward v. Ruel, 355 Ill. 163, 188 N.E. 911; People v. Ford, 289 Ill. 550, 124 N.E. 549. Thus, since the circuit court lacked jurisdiction over the above three cases, the judgment is void. It is well established, that where the judgment and conviction is entirely

void a discharge should be granted. People v. Whitsen, 74 Ill. 20; People v. Foster, 104 Ill. 156. In the case at bar, the petitioner is entitled to a writ of habeas corpus, where the defects are so radical as to render the judgment absolutely void. People v. Allen, 160 Ill. 400, 43 N.E. 332.

Upon the filing of the instant petition of habeas corpus in the circuit court, the circuit court was so bias and prejudiced against the petitioner, the circuit court deliberately violated every court rule and State Constitutional Amendment in relation to the normal proceedings of a habeas corpus, as the circuit court never even placed the petition on the courts docket, or provided petitioner summons's to adequately serve the respondent a copy of the petition. The certified statement of conviction / disposition clearly demonstrates that the circuit court received and denied the petition on the same day. (See Appendix "A")

Upon appeal, the first district appellate court adopted the practice of continuously being bias and prejudice against the petitioner, as the appellate court dismissed the petitioner's appeal because the clerk of the circuit court refused to file the record on appeal. The clerk of the circuit court of cook county has refused to perform any of her duties in relation to any of the petitioner's appeals. (See Appendix "B") In an attempt to correct and/or curb

the unconstitutional actions of the clerk, the petitioner wrote and informed Honorable Rod R. Blagojevich of such actions (See Exhibit #1) The petitioner has even filed three (3) Petition of Mandamus' in this court; requesting the court to direct the clerk of the circuit court to adhere to the rules upon appeal, all to no avail as all ~~three~~ three (3) Mandamus' have been denied.

The appellate court first district has been bias and prejudice against the petitioner on every appeal filed; and every appeal filed was assigned to O'Mara Forssard, Tuily and Gallagher; and every option has been presented with bias and prejudice against the petitioner denying his appeal, all because the above three justice's are the victim of related criminal offences, or are related to a person who is a victim of a crime that is similer to the petitioner's.

CONCLUSION

WHEREFORE, the petition for writ of habeas corpus should be granted as the judgment is absolutely void.

Respectfully Submitted
Theodore Luczak

STATE OF ILLINOIS }
COUNTY OF WILL } SS.

AFFIDAVIT

I, Theodore Luczak, being first duly sworn on oath deposes and states as follows:

1. That I am an inmate of the Illinois Department of Corrections, currently confined at the Stateville Correctional Center, located at Route 53, Post Office Box 112, Joliet, Illinois 60434.
2. That on July 15, 2006, I caused to be filed, a petition for writ of habeas corpus together with a request for summons.
3. That on July 19, 2006, the circuit court denied my petition sua sponte.
4. That on August 18, 2006, I filed my notice of appeal together with a request to the court reporters office and the clerk of the court, requesting that the record be prepared and filed in the appellate court.

5. That on March 12, 2007, I filed my first motion for extension of time to file the record on appeal, and once again notified the clerk of the court to file the record on appeal.
6. That on March 30, 2007, I filed my second motion for extension of time to file the record on appeal, and I once again notified the clerk of the court to file the record on appeal.
7. That the prison officials are impeding and frustrating the process of my criminal appeal, and upon requesting the appellate court for a court order requiring prison officials to afford me adequate and meaningful access to courts, the appellate court denied such request on October 10, 2006.
8. That due to the prison officials denying me adequate and meaningful access to courts, I am unable to fully litigate and present an argument to the Illinois Supreme Court, because I am only given ten (10) sheets of typing paper each month.

9. That the petitioner has filed a proceeding in all three (3) State Court systems, seeking to have the clerk of the Circuit Court of Cook County to adhere to the rules of the appellate procedures.

Further Affant Sayeth Not.

Pursuant to 735 ILCS 5/109, I declare under penalty of perjury, that everything contained herein is true and accurate to the best of my knowledge and belief. I further declare and affirm, that the matter at hand is not being taken either frivolously nor maliciously and that I believe the foregoing matter is being taken in good faith.

151 Theodore Leccopt
Affant.